

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Preliminary Consolidated State Plans Under Section 14302 of the Elementary and Secondary Education Act

AGENCY: Department of Education.

ACTION: Responses to public comments on proposed guidance for preliminary consolidated State plans.

SUMMARY: The Department of Education provides responses to public comments submitted on proposed guidance for the submission of optional preliminary consolidated State plans under section 14302 of the Elementary and Secondary Education Act.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: Section 14302 of the ESEA, as reauthorized by the Improving America's Schools Act, provides for the establishment of criteria under which any SEA may obtain Federal funds under certain programs through a single consolidated plan rather than through separate funding applications or plans. As explained in section 14301 of the ESEA, this consolidated plan option is intended to enhance cross-program coordination, planning and service delivery, as well as the integration of Federal program services with services offered by States and localities as keys to increased student achievement.

On January 13, 1995, the Department published proposed guidance and criteria for optional consolidated State plans under section 14302 (60 FR 3306). After considering public comment on these criteria, the Department issued forms and instructions, together with a supplementary guidance document, to State educational agencies (SEAs) on April 20, 1995. Appendix A to this notice contains the relevant portions of this guidance document. Except as provided in the guidance document, the instructions that SEAs received reflect the criteria published in the January 13 notice. The Department is treating these criteria as nonbinding. Appendix B to

this notice contains the Department's response to substantive comment received on its proposals for submission of consolidated State plans.

Dated: June 9, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

Appendix A—Consolidated State Plans Supplementary Information

April 20, 1995.

On January 13, 1995, the Department published in the **Federal Register** proposed criteria to govern submission of consolidated State plans under section 14302 of the Elementary and Secondary Education Act (ESEA), as amended by the Improving America's Schools Act (IASA). The Department received comments from State educational agencies (SEAs), nonprofit private organizations, and other interested persons. These constructive and thoughtful comments were part of a process of collaboration with the public about the content of consolidated State plans that began with the Department's distribution of preliminary guidance at the December, 1994 IASA conference in Baltimore, Maryland.

These comments are addressed throughout this package [. . .]

I. Preliminary Consolidated Plans

1. *Overall Approach.* The January 13 notice continues to provide the basic framework for the submission of both preliminary consolidated State plans in May of this year, and final consolidated plans in the spring of 1996. Except for the need to address equitable participation in State-level programs, as is now required by section 427 of the General Education Provisions Act, instructions for the preliminary consolidated plan contain only relatively minor adjustments to those proposed in the January 13 **Federal Register** notice. As suggested in comments on the proposal, these changes include the need for States to include pupil services personnel among the key individuals who will participate in development of the final consolidated State plan.

A few SEAs have indicated a desire to submit consolidated State plans in one stage rather than two. Those SEAs should review the information on final consolidated State plans contained in the January 13 notice and Part II of this guidance, which provides a framework for submission of their plans. However, because collaboration with the public on the criteria for the final plan is still continuing and the final criteria may differ from the criteria provided in this guidance, an SEA submitting a final plan in the next few months could be asked to provide additional information that the Department decides is needed in final plans.

2. *Inclusion of Additional Programs.* Section 14302 authorizes the Secretary to designate programs in addition to those specified in the statute as programs that a State may include in its consolidated plan. In the January 13 notice, the Secretary specified several such additional programs. Commenters on the January 13 notice

suggested that the Secretary should designate a number of other programs (not listed in the January 13 notice) for possible inclusion in consolidated State plans. Among the programs suggested for designation were the Individuals with Disabilities Education Act (IDEA), the Adult Education Act (AEA), and the Bilingual Education Act.

The Department has determined that none of these programs should be designated at this time for inclusion in consolidated plans. Both the IDEA and the AEA will be subject to reauthorization during the coming year. (While the Perkins Act is also subject to reauthorization, Congress, in section 14302, specifically designated the Part A Perkins Act program for optional inclusion in a consolidated State plan.) A State's funding level under the State-level Bilingual Education program authorized in section 7134 of the ESEA is dependent upon the receipt of competitive grant awards by LEAs in the State. The Emergency Immigrant Education Program has a distinctive relationship to other Federal initiatives for addressing immigrant-related issues. Therefore, these programs are not appropriate for inclusion.

Accordingly, at this time an SEA may choose to include in a consolidated State plan the thirteen programs proposed in the January 13 notice for purposes of obtaining FY 1995 funds.

The Secretary's designation of programs affects only a State's ability to receive program funding on the basis of a consolidated plan. However, the scope of a State's consolidated planning is in no way limited to those included programs. States are encouraged to focus their consolidated plans on how funds provided under *all* Federal programs can be used in conjunction with State and local resources to enhance the academic achievement of all students.

3. *Coverage of the Carl D. Perkins Vocational and Applied Technology Education Act.* A State may include the following Perkins Act programs in a preliminary consolidated State plan: programs under Title II, Parts A-C and Title III, Parts A, B, and E. For funds that become available on July 1, 1995, the current State plans under the Perkins Act are in effect. Accordingly, to receive these funds under that Act, a State need not submit additional plan descriptions or information unless program changes warrant the submission of amendments pursuant to section 113(c) of the Perkins Act.

Nevertheless, a State may wish to include one or more of the Perkins Act programs in its consolidated State plan for the period beginning July 1, 1995, in order to encourage and facilitate coordination of these programs with ESEA and other programs included in the plan. In this case, a State is encouraged to include in its description of the processes for developing the final plan the involvement of the State agency designated as the State board of vocational education under section 111(a)(1) of the Perkins Act, even though the SEA submits the preliminary consolidated plan.

The Secretary has transmitted the Administration's legislative proposal for restructuring the Perkins Act for the grant

cycle beginning on July 1, 1996, and subsequent fiscal years. This proposal contemplates close coordination between the Perkins Act and other Federal assistance programs. Inclusion of Perkins Act programs in a preliminary consolidated State plan can constitute a significant first step toward these goals. See Part II, Final Consolidated Plans.

4. *Certifications.* Commenters requested the consolidation of the standard certifications regarding matters such as construction, Drug-Free Workplace Act, and lobbying. In response, the forms and instructions for the preliminary consolidated State plan include a consolidated certification format.

5. *The General Assurances that Accompany a Consolidated Plan.* Consistent with section 14303 of the ESEA, the application for consolidated plans will include an assurance that the State agrees to "the assurances contained in section 14303(a) of the [ESEA]." Under section 14303(a)(1), these assurances include the SEA's agreement that "each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications."

While submission of a satisfactory consolidated plan permits the Secretary to award funds under programs that the plan covers, requirements governing the operation of programs are not affected. Absent a waiver, the assurance contained in section 14303(a)(1) does not eliminate any of a program's underlying operational requirements, including those that the program statute may express as application or plan descriptions or assurances (although it does eliminate a requirement to prepare a program application or plan). The January 13 **Federal Register** notice gives several examples of the effect of the general assurance on requirements expressed as program plan or application requirements. Therefore, for each program that a State includes in its preliminary consolidated plan, the requirements underlying statutory application or plan provisions mentioned in the following sections of the authorizing statute continue to apply to the State's use of program funds:

(1) Title I, Part A, of the ESEA (Improving Basic Programs Operated by Local Educational Agencies).

—Section 1111(b) and (c) of the ESEA.

(2) Title I, Part B, of the ESEA (Even Start).

—None; no statutory application or plan requirements.

(3) Title I, Part C, of the ESEA (Migrant Education).

—Sections 1304(b) and (c); 1306(a).

(4) Title I, Part D, of the ESEA (Neglected, Delinquent or At-Risk Children).

—Section 1414(a) of the ESEA.

(5) Title II of the ESEA (State and Local Programs) (Professional Development).

—Section 2205 of the ESEA.

(6) Title IV, Part A, Subpart I (other than the Governor's Programs in section 4114), of the ESEA (Safe and Drug-Free Schools and Communities).

—Section 4112(a) and (b) of the ESEA.

(7) Title VI of the ESEA (Innovative Education Program Strategies).

—Section 6202(a) of the ESEA.

(8) Title VII, Subtitle B of the Stewart B. McKinney Homeless Assistance Act (the Education for Homeless Children and Youth program) enacted in Title III, Part B of the IASA.

—Section 722(g) of the McKinney Act.

While the Goals 2000, School-to-Work, and the Title III, ESEA Technology programs may be included in the preliminary consolidated plan, submission of a consolidated State plan, in either preliminary or final form, does not alter planning or application requirements under these programs. As indicated above, many Perkins Act programs also may be included in the consolidated plan, but a State's grant from funds that become available on July 1, 1995, already is authorized under its previously approved plan. States review the content of the approved plans that have been submitted under these programs in determining their obligations under the general assurance in section 14303(a)(1).

6. *Public Participation; Peer Review.*

Section 14303(a)(7) of the ESEA provides that, before a consolidated State plan is submitted to the Secretary, the State must afford a reasonable opportunity for public comment on the plan and consider the comment. Commenters on the January 13 notice requested guidance on the manner in which this requirement could be satisfied.

States have wide latitude in determining how best to involve the public in a meaningful process of commenting on the proposed content of a preliminary (or final) consolidated State plan. Among the procedures that SEAs might use are (1) public comment sessions in regional workshops; (2) regional hearings; (3) dissemination of proposals through Statewide publications or similar widely-disseminated documents; and (4) any methods that, under State procedures, must be used to obtain comment on comparable State actions. In selecting the most appropriate methods, States may want to consider both the expected public interest in how the consolidated plan will be prepared, and any expected public reaction to development of a consolidated plan rather than individual program plans and applications.

The Department interprets section 14303(a)(7) as permitting an SEA to request and consider comment on the substance, rather than the precise text, of a consolidated State plan.

Furthermore, if an SEA believes that it has insufficient time to meet the public participation requirement before the due date for submission of preliminary consolidated plans, it may submit to the Department a draft preliminary consolidated plan before completing the public comment process. In this case, prior to the Secretary's approval of the plan, and the issuance of a grant award, the SEA would be expected to submit any revisions to the draft plan that are needed in view of public comment.

As proposed in the January 13 notice, the Department will approve preliminary

consolidated State plans without peer review.

II. Final Consolidated Plans

1. *Inclusion of Information on Standards and Assessments Under Section 1111(b) of the ESEA.* The January 13 **Federal Register** notice proposed criteria for inclusion in a consolidated State plan of information regarding standards and assessment under Title I of the ESEA. Some clarification regarding these criteria may be helpful. The Department intends to ask SEAs to include information regarding (1) content and performance standards, (2) assessments, and (3) adequate yearly progress, called for in section 1111(b) of the ESEA, that the SEA would submit if it prepared an individual State plan under Title I, Part A.

Section 1111(b) of the ESEA requires that a State plan under the Title I, Part A program must include certain specified information on developing State content and performance standards, assessments, ways of measuring adequate yearly progress and other matters.

Under the Department's approach, if a State is participating in Title III of the Goals 2000: Educate America Act, and has an approved State Goals 2000 plan, which adequately addresses the elements contained in section 1111(b) of the ESEA, a State's final consolidated plan would not need to contain any supplemental information relating to this section. On the other hand, if the State is not participating in Goals 2000, its Goals 2000 plan has not been approved, or its Goals 2000 plan does not address these elements sufficiently, the Department would request further information relevant to section 1111(b). These information requests would, of course, take into account the process of transition to standards, assessments and other section 1111(b) factors that States are undertaking.

2. *Perkins Act.* The authorization for the Perkins Act programs expires on September 30, 1996. As indicated above, the Secretary has transmitted a reauthorization proposal, the Career Preparation Education Reform Act of 1995. The information or descriptions that a State would be asked to include in a final consolidated plan with respect to the Perkins programs will depend upon the content of the reauthorized legislation.

4. *Peer Review.* Some commenters expressed concern that the Department's proposed use of peer review to evaluate a State's final consolidated plan could unnecessarily burden the approval process with activities that duplicate the peer review process under Goals 2000.

For final consolidated plans, the Department is developing procedures for peer review in collaboration with SEAs and others. However, if an SEA has had its Goals 2000 State improvement plan approved through peer review, and the Goals 2000 plan encompasses the content needed for final consolidated State plans, the Department does not believe that a further peer review process should be necessary. If Goals 2000 is included in the consolidated plan, a single peer review should be conducted.

5. *Other Considerations.* As with the preliminary consolidated State plans, final plans will need to address efforts to promote

equitable participation in State-level programs, as required by section 427 of the General Education Provisions Act. In addition, as with the preliminary plans, the final plans will need to be developed through a public participation process that comports with section 14303(a)(7) of the ESEA.

In all other respects, the criteria proposed in the January 13 notice continue to reflect the framework and content that the Department is considering for final consolidated State plans.

III. Other Issues

1. *Consolidated Local Plans.* Commenters on the Department's January 13 proposal requested further information on submission of consolidated local plans under section 14305 of the ESEA. The Department issued and distributed such guidance under a March 24, 1995 letter from the Assistant Secretary [* * *].

2. *Consolidation of State Administrative Funds.* Commenters requested clarification on the consolidation of State administrative funds under section 14201 of the ESEA. Under this provision, an SEA may consolidate funds available under certain programs for State administration without regard to whether the State submits a consolidated State plan under section 14302. To take advantage of this flexibility, the SEA must be able to demonstrate that a majority of its resources comes from non-Federal sources.

3. *Participation by Private School Children.* SEAs that submit consolidated State plans are encouraged to review the requirements in the ESEA regarding participation of children in private schools, including those contained in sections 1120 and 14503 of the ESEA. An SEA that submits a preliminary or final consolidated State plan is subject to these requirements for the programs covered in the plan to the same extent that it would be if it were submitting separate State plans or applications.

4. *Goals 2000; School-to-Work.* A State that includes the Goals 2000 or School-to-Work programs in its final consolidated plan may be asked to describe how activities conducted as part of planning, developing, and implementing these programs may be integrated into or coordinated with other activities conducted under the consolidated State plan.

5. *Duration.* Subject to any change in the law, the Department intends that approval of a State's final consolidated plan would be the basis for providing a grant to the State for all remaining years of each program authority under which the State requests funding in its plan.

Appendix B—Response to Public Comment on Proposed Guidance

This appendix contains the Department's response to major substantive comments on the proposed guidance published on January 13, 1995, on the submission of consolidated State plans under section 14302 of the ESEA, as amended by the IASA.

1. *General.* Comments from State educational agencies were generally strongly favorable to the Secretary's proposed criteria for consolidated State plans. These

commenters affirmed that the flexibility afforded SEAs was consistent with the intent of section 14302, and constituted an important and appropriate means of encouraging SEAs to carry out cross-program coordination and integration. A number of SEAs further indicated that the overall approach reflected in the proposed guidance would result in improved program administration and a greater focus on higher student achievement.

For example, one State superintendent observed: "Your proposal to provide a two-stage approach for states to follow in their planning is 'right on target' with the approach our workgroup has been following. We have found the proposed criteria quite workable and easy to follow* * *. [T]he criteria proposed will facilitate the linkages and coordination needed between IASA and [Goals 2000 and School-to-Work.]" Another State superintendent commented: "[W]e believe consolidated planning will serve as a catalyst for closer linkages between federal and state educational programs." On behalf of another SEA, a commenter observed: "[The SEA] is very supportive of the concept of a consolidated state plan as it will facilitate the delivery of programs and services designed to improve student achievement. A consolidated plan offers new opportunities for state and local educators to develop and implement a vision of seamless service delivery." Yet another SEA representative commented, with respect to the guidance, "We do not believe that flexibility is granted at the expense of accountability, but rather refocuses the accountability on school districts to produce students that are capable of succeeding at future endeavors."

The Department agrees with these comments. The guidance for the submission of preliminary consolidated State plans retains the thrust, flexibility, and basic content of the criteria proposed in the January 13 notice. In response to various requests to clarify limited aspects of the proposed criteria, the Department has made relatively minor changes in the guidance to ensure accountability and adherence to core provisions in the ESEA. These changes include an SEA's inclusion of pupil services personnel among the key individuals with whom it will consult on the State's final consolidated plan, and identification of programs under the Perkins Vocational and Applied Technology Act that may be included in a consolidated State plan.

2. *Scope of plan; reduction of descriptions.* One commenter observed that, in failing to require all substantive descriptions contained in program-specific plans or applications under individual program statutes, proposed criteria for the consolidated State plan were not consistent with, or supported by, section 14302. The commenter stated that the approach taken in the proposed criteria would impair program accountability. The commenter urged that the criteria retain the specific content of individual program plans and applications, while eliminating unnecessary duplication among common plan and application elements.

The Department believes that the guidance for submission of preliminary consolidated

State plans is consistent with section 14302 and carries out its intent. Section 14302(a) provides the Secretary with broad authority to tailor the criteria and procedures to govern a consolidated State plan so as to reduce burden and to encourage the meaningful cross-program coordination, integration of services, and overall focus on increased student achievement that section 14301 anticipates. Indeed, section 14302(b)(3) specifically provides that "[t]he Secretary shall require only *descriptions*, information, assurances, and other materials that are *absolutely necessary* for the consideration of the consolidated State plan * * *." (emphasis added).

The Department has observed this direction in providing guidance regarding criteria for the optional, preliminary consolidated State plan. These criteria acknowledge that States would have insufficient time to submit well-considered final consolidated plans this year, and so focus on the most essential elements that the Department believes should guide State thinking. The criteria therefore contemplate preparation, during the coming year and with the active involvement of all interested stakeholders, of a final consolidated State plan that will focus all of the resources of Federal programs included in the plan on a thorough, coordinated and integrated effort to provide the intended beneficiaries of those programs with services in ways that will contribute to an increased level of student achievement. Moreover, the Department believes that the results that Congress wanted to encourage by its enactment of sections 14301-07 are more likely to be achieved through the decreased burdens offered by the Department's approach than through continued use of the individual program-specific plan and application provisions that the commenter would prefer.

The Department emphasizes that, absent a waiver, submission of a consolidated State plan neither relieves a State nor any of its grantees of the obligation to comply with all requirements governing the use of funds provided for programs included in the plan. Moreover, these requirements extend to those that the individual program statute include as elements of program-specific plans or applications. Preparation and submission of a consolidated plan merely permits the State, as a condition of receiving funds for the Federal programs that the plan includes, to prepare a plan that addresses cross-program coordination, service integration and student achievement rather than the various elements in the program-specific applications and plans. Rather than use program-specific applications to secure information on how these programs might be implemented, the Department intends to focus on pertinent aspects of program implementation through other means, including integrated program monitoring and State-by-State collaboration.

3. *Section 1111(a).* Some commenters suggested that criteria for the final consolidated State plan include information, particularly with regard to standards and assessments, specified in section 1111(b) of the Title I, ESEA, statute. The commenters urged that this information was a core aspect of the statutory requirements, applicable

across-the-board to all programs, and thus should be an integral part of the process of developing a consolidated State plan. In response, the guidance on final consolidated plans provided to SEAs on April 20, 1995 (Appendix A to this document) clarifies the Department's intent that final consolidated plans contain adequate information, consistent with section 1111(b), about content and performance standards, assessments, and adequate yearly progress. The Department will provide further information on this issue when it provides additional guidance on the content of final consolidated State plans.

4. *Other comments.* The Department's response to other substantive comments or requests for clarification is contained in the April 20 guidance document (Appendix A to this notice).

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